

Arizona General Stream Adjudication Bulletin

OFFICE OF THE SPECIAL MASTER • APRIL 1993

Fort McDowell Indian Community Settlement Proposed

An application to approve the proposed water rights settlement involving the Fort McDowell Indian Community (Community) northeast of Phoenix is now before Judge Stanley Goodfarb. The application, filed by the settling parties on February 22 asks the Superior Court's approval of an award of 36,350 acre-feet (ac-ft) of water per year to the reservation.

Under the settlement, the sources of water for the Fort McDowell Indian Community would be as follows (total maximum annual diversions): Community's Kent Decree entitlement, 7060 ac-ft; Community's Central Arizona Project (CAP) entitlement, 4300 ac-ft; Salt River Pro-

ject's (SRP) contribution, 6730 ac-ft; Roosevelt Water Conservation Dist., 3200 ac-ft; and CAP water acquired from the Harquahala Valley Irrigation Dist., 13,933 ac-ft. The Community's total maximum annual diversion rights of 36,350 ac-ft are calculated by multiplying the Roosevelt Water Conservation Dist. and CAP water contributions by the return flow factor of 1.0526 and adding the Kent Decree and SRP contributions.

The rights of the settling parties (other than the Fort McDowell Community) to the water they are providing to the settlement will be determined later in the Gila River adjudication.

Judge Goodfarb has ordered that notice of the proposed settlement be sent to all Gila River claimants, that the Department of Water Resources prepare a report concerning the settlement, and that the proposed settlement be referred to Special Master John E. Thorson for

a recommendation on whether it should be approved. Judge Goodfarb's order also sets forth the criteria under which the settlement will be considered.

A public presentation on the proposed settlement will be held at 7:00 p.m. on Wednesday, June 2, 1993, at in the Maricopa County Board of Supervisors Auditorium, 205 West Jefferson, Phoenix, AZ. Objections to the proposed settlement must be filed with the Clerk of the Superior Court on or before July 2, 1993, and must strictly conform with the requirements of Judge Goodfarb's order.

Documents about the proposed settlement and copies of Judge Goodfarb's order may be reviewed at the Adjudications Division, Department of Water Resources, 15 S. 15th Ave., Phoenix, AZ 85007 or at the Maricopa County Clerk of the Superior Court, Records Management Center, 3345 W. Durango St., Phoenix, AZ 85009. ♠

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Water Equivalences

1 gallon/minute =	.0044192 ac-ft/day	- or -	1.613008 ac-ft/year
10 gallon/minute =	0.44192 ac-ft/day	- or -	16.13008 ac-ft/year
50 gallon/minute =	.22096 ac-ft/day	- or -	80.65 ac-ft/year
100 gallon/minute =	.44192 ac-ft/day	- or -	161.30 ac-ft/year
500 gallon/minute =	2.2096 ac-ft/day	- or -	806.50 ac-ft/year
1000 gallon/minute =	4.4192 ac-ft/day	- or -	1613.01 ac-ft/year

Calendar

April 21 — 9 a.m. to Noon
San Pedro River Adjudication Orientation (GR)
 Arizona State Courts Bldg.
 Room 345
 1501 West Washington
 Phoenix

April 21 — 7 to 10 p.m.
San Pedro River Adjudication Orientation (GR)
 Hayden-Winkleman Unified School
 824 West Thorne Ave.
 Winkleman

April 22 — 1 to 4 p.m. and 7 to 10 p.m. (same program repeated)
San Pedro River Adjudication Orientation (GR)
 Buena High School
 5225 Buena School Blvd.
 Sierra Vista

April 23 — 10 a.m. to Noon
Gila River Steering Committee Meeting (GR)
 Dept. of Water Resources
 Basement Conference Room
 15 South 15th Ave.
 Phoenix

April 23 — 1:30 p.m.
Gila River Monthly Hearing (GR)
 Judge Goodfarb's Courtroom (8th Floor)
 Maricopa Cnty. Superior Court
 201 West Jefferson
 Phoenix

April 27 — 9 a.m.
Status Conference (LCR)
Case No. 9005
Silver Creek Adjudication
 Paint Pony Convention Center
 Show Low

May 14 — 1:30 p.m.
Gila River Monthly Meeting (GR)
 Judge Goodfarb's Courtroom (8th Floor)
 Maricopa Cnty. Superior Court
 201 West Jefferson
 Phoenix

May 26 & 27 — 9 a.m. to 5 p.m.
Pretrial Conference (LCR)
Case No. 9005, Group 1
 Paint Pony Convention Center
 Show Low

June 8 — 9 a.m.
Readiness Conference (LCR)
Case No. 9005, Group 1
 Paint Pony Convention Center
 Show Low

June 11 — 1:30 p.m.
Gila River Monthly Hearing (GR)
 Judge Goodfarb's Courtroom (8th Floor)
 Maricopa Cnty. Superior Court
 201 West Jefferson
 Phoenix

June 15 — 9 a.m.
Trial Begins
Case No. 9005, Group 1 (LCR)
 Paint Pony Convention Center
 Show Low

July 23 — 1:30 p.m.
Gila River Monthly Hearing (GR)
 Judge Goodfarb's Courtroom (8th Floor)
 Maricopa Cnty. Superior Court
 201 West Jefferson
 Phoenix

August 27 — 1:30 p.m.
Gila River Monthly Hearing (GR)
 Judge Goodfarb's Courtroom (8th Floor)
 Maricopa Cnty. Superior Court
 201 West Jefferson
 Phoenix

All are open to the public.

GR = Gila River Adjudication

LCR = Little Colorado River Adjudication

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Volume 1
 Number 1

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What is a Special Master?

The Arizona legislature has assigned the Special Master the task of quantifying and prioritizing validly existing water rights in the Gila River and Little Colorado River watersheds. The Special Master is a judicial officer appointed by the Arizona Supreme Court to hear the cases arising out of these adjudications. After hearing all the cases in a watershed, the Special Master will present a report and recommended final decree to Judge Stanley Goodfarb, the superior court judge assigned in the Gila River adjudication, and to Judge Allen Minker, the superior court judge assigned in the Little Colorado River adjudication.

Little Colorado River Proceedings

Silver Creek trial to start

The Special Master approved the recommendation of the prehearing committee at the February 9 status conference and consolidated several cases (Nos. 6417-033-9000 to -9007) into one case. Originally, Case No. 6417-033-9005/6 (the case on the issues of diversion and quantification) was scheduled to be tried separately. Because many objections raised in this case were duplicative or could not be decided without deciding legal issues from other cases, the Master approved the consolidation. See Case Management Order No. 3, dated February 19, 1993, for more details.

The prehearing committee was appointed by the Master in July 1992 to prepare a prehearing statement which would aid the Master and parties in preparing for trial. At the monthly status conference on February 9, the committee recommended that the Master consolidate the cases.

The resulting case will be known as *In re Diversion Information and Other Objections*, No. 6417-033-9005, and the case begins trial on June 15. The 40 watershed file reports (WFRs) that the parties have been preparing for the last year will be divided into six groups (stockponds, reservoirs, non-provider irrigators, commercial/industrial, irrigation providers, and municipal providers). Each group will go to trial at different times.

Questions concerning priority

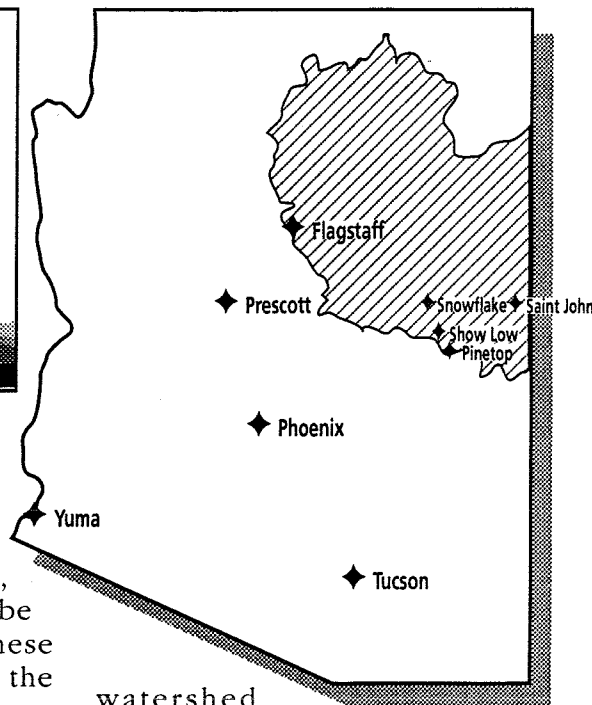
dates, the hydrographic survey report (HSR) format and preparation, discontinued uses, the source of water, diversions, and quantification will all be decided as objections to these watershed file reports raise the issues.

The case consolidation means that if you were a participant in any one of the consolidated cases, you will still be allowed to be heard when that issue comes up in *In re Diversion Information and Other Objections*.

The hearing on the first group watershed file reports in the Silver Creek watershed will begin on June 15th at the Paint Pony Convention Center in Show Low. Other groups will go to trial later in 1993 or in early 1994. The watershed file reports to be tried in this first group, which are stockwatering, stockpond, and instream uses, are as follows:

033-41-012 (State Land Dept.)
033-50-001 (Forest Service)
033-50-007 (Forest Service)
033-51-001 (Forest Service)
033-51-003 (Forest Service)
033-56-070 (Navajo County Parks)

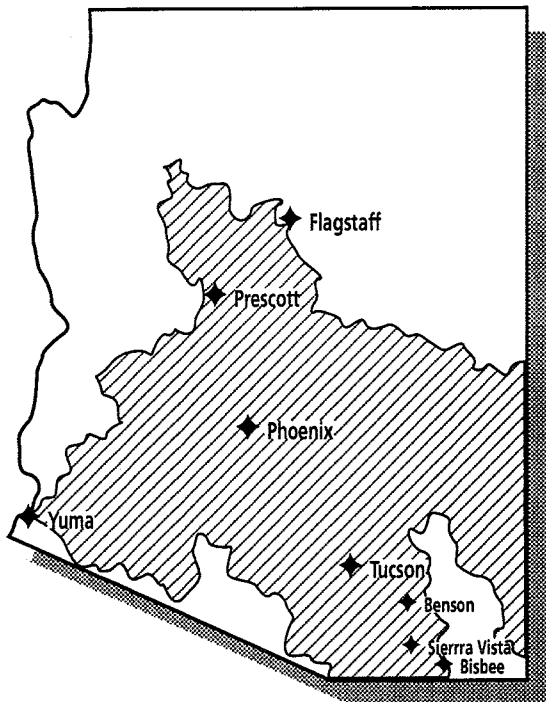
You should look at these WFRs to see if any of the issues in which you are particularly interested will be raised when these WFRs go to trial in June or if the objections are similar to objections directed to your WFR. You can review the



watershed file reports and objections at the Arizona Department of Water Resources or at the Clerk of the Superior Court's office, Apache County Courthouse, St. Johns.

Here is a brief description of other matters brought before the Master at the February 9 status conference:

- LDS Church's Motion to Allow Late Filing of Claims: Response and reply deadlines have already passed. Judge Minker to hear and rule on motion at Court-house, St. Johns, at 9:00 a.m. on April 14.
- Phelps Dodge's Notice and Motion for Approval of Stipulation between Phelps Dodge and Silver Creek Irrigation District: To be heard at the April 27 status conference.
- Discovery problem between Pinetop-Woodland Irrigation Company, Woodland Irrigation Company, Ponderosa Domestic Water Improvement District and the United States: Held over until March 30 status conference. ♠



Gila River Proceedings San Pedro

or that there are other reasons why the earlier ruling should not apply.

You should keep informed about what is happening in these initial cases. Also, you may want to attend one of the San Pedro River watershed orientation sessions. *See* calendar.

A "targeted" case management approach has been approved by Judge Stanley Goodfarb in the San Pedro River adjudication. Under this approach, the Special Master will select individual watershed file reports (WFRs), which will be tried in order to resolve major objections.

The Master intends to start with relatively simple contested cases, such as stockwatering and stockpond uses. The Special Master has called "targeted" cases involving ten landowners (approximately 100 WFRs). Please refer to the docket to reference what WFRs are involved.

Generally, the decisions reached by the Master in each contested case will be binding upon the litigants involved, but only be "precedential" in other contested cases. This means that once an important objection has been decided in a "targeted" case, the Master will apply the same ruling in later cases involving the same or similar objections. If a litigant in a later case disagrees with the application of the same ruling, the litigant must demonstrate to the Master that circumstances in the later case differ, that new or additional evidence requires a different result,

General Gila River Proceedings

At the regular monthly hearing before Judge Goodfarb on February 19, 1993, the following occurred:

- Motion to Intervene filed by Joseph K. Brining, Jr., Attorney for the Bankruptcy Estate of James W. Ray, Jr. and Linda Diane Ray. Delayed until March 26 hearing.
- San Carlos Apache Tribe Settlement: Joe Sparks reported that the proposed settlement will be filed with the court by December 1, 1993, and the court will have 13 months to review the settlement before the congressionally-imposed deadline. While Judge Goodfarb suspended hydrographic survey report investigations for the Salt River portion of the San Carlos Apache Tribe's settlement, the investigations will continue for the Gila River portion.
- Master's Report: The Master reported that microfilming the Kent Decree records has been completed. The microfilm and can be viewed at the Department of Water Resources, the

Clerk's Office at Maricopa County Superior Court, Arizona State Library, and the Arizona State Archives. Copies can be ordered through Kathy Hubbard, State Archives, 542-3471.

- DWR Report: The preliminary Hydrographic Survey Report on the Upper Salt River Watershed is completed and can be reviewed at DWR. Comments to the preliminary HSR are due July 16, 1993.

The March 26 monthly hearing will be reported in the next issue. ♠

Watershed File Report Codes

D	Diversion Dam or facility
S	Spring
P	Instream pump
W	Well
DM	Domestic use
ID	Industrial/Commercial use
MI	Mining use
OT	Other irrigation use
RC	Recreational irrigation use
WL	Wildlife use
DV	Diversion
IR	Agricultural irrigation use
MU	Municipal use
PR	Power use
SW	Stockwatering use

Reservoir Types

PS	Primary Storage
SR	Small Reservoir
SP	Stockpond

Common Questions

Water adjudications can be complex and confusing. In an effort to help litigants through the process, the office of Special Master will answer commonly asked questions in this space each month. The office of the Special Master often can't respond to these questions in person, because conducting ex parte (one sided) communications could be a violation of the Master's ethical duty. But, questions about procedures and scheduling can be addressed by using this public forum.

Question: *How can I file a late statement of claimant?*

Answer: Because the deadline for filing a statement of claimant in the adjudication has passed (the deadline was 1985 for most watersheds), any water user who wishes to file a late statement of claimant must make a motion to the presiding judge in that case.

A motion is a type of pleading in which the party asks the judge to do something (in this case, allow the party to file after the deadline). The motion must follow the Arizona Rules of Civil Procedure. For a complete discussion of how to create a pleading, see the next issue's **How To Column**.

In the motion, you should do two things: (1) explain why you or your predecessor was not able to file the statement of claimant before the deadline; and (2) ask for permission to intervene and file a late statement of claimant form. Your motion must be notarized (sworn to before a notary public). You should attach copies of your statement of claimant form to your motion.


The original motion must be filed with the superior court clerk's office in either Apache County for the Little Colorado River adjudication or in Maricopa County for the Gila River adjudication. See addresses in Sources of Help section. A copy must be sent to the appropriate judge for your adjudication. Maricopa County Superior Court Judge Stanley Good-

farb presides over the Gila River adjudication and Greenlee County Superior Court Judge Allen Minker presides over the Little Colorado River adjudication.

Copies of the motion must also be mailed to the court-approved mailing list for your adjudication. You may obtain a copy of the list from the Department of Water Resources.

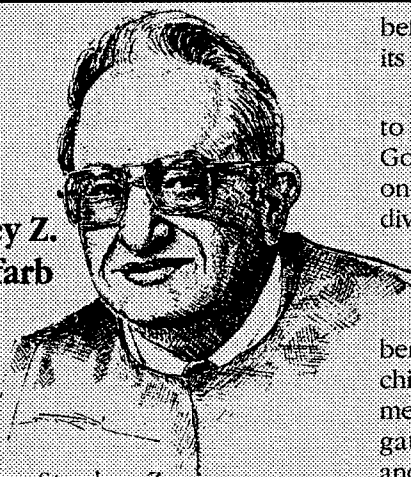
Once you've filed your motion, other claimants in that adjudication may object to the filing of a late statement of claimant or object to the motion to allow intervention into the adjudication. The judge may decide to schedule an oral hearing on the matter. If this happens, you should

be prepared to appear in court and make your arguments in person to the judge.

After considering your motion, any objections and any testimony in court, the judge will decide the motion. If the judge decides to allow you to intervene and file a late statement of claimant, you should be prepared to have all your paperwork together (including a check payable to DWR for the filing fee) and be ready to file with DWR in Phoenix. The original statement of claimant form should be filed with DWR after the court approves the late submission. A copy should also be filed with the appropriate clerk's office. 

Profiles

**Judge
Stanley Z.
Goodfarb**



Judge Stanley Z.

Goodfarb was assigned by the Arizona Supreme Court in 1979 to preside over the massive Gila River adjudication. This case, which contains 24,000 parties asserting over 66,000 water rights, is one of the largest cases ever to be heard in Arizona.


Many of Judge Goodfarb's early rulings established the structure for the adjudication. One of his rulings, concerning the interconnection of surface and groundwater (the "50%-90-day rule"), is one of several issues

before the Arizona Supreme Court on its interlocutory appeal process.

Judge Goodfarb was first appointed to the Maricopa County bench by Governor Raul Castro in 1976. While on the bench, he has served in many divisions of the court and has gained a reputation as an expert in the disposition of difficult civil cases.

Prior to his appointment to the bench, Judge Goodfarb was assistant chief counsel for the Arizona Department of Transportation where he litigated condemnation, construction and environmental cases.

Born in New York, he moved with his family to Tucson at an early age. He graduated with honors from the University of Arizona with an undergraduate degree in history and received his doctorate of law in 1954 from the University of Arizona School of Law.

Judge Goodfarb and his wife, Barbara, have three children. When not holding court in Phoenix, Judge Goodfarb can often be found fishing many of Arizona's lakes and streams. 

How To...

File Assignment of Statement of Claimant to New Owner

Editor's Note: This column will be a regular feature in the Bulletin.

Because stream adjudications take many years to complete, property often is sold before the hearings are complete. The new property owner will want to protect the water right associated with his or her new property, but he or she may be precluded from filing a new statement of claimant because the deadline has passed.

Also, the old property owner will want to be released from the litigation involving property in which he or she no longer has an interest. The new property owner can take over where the old property owner left off with an "assignment" of the statement of claimant.

"Assignment" is a legal term which means that one party is giving his interest in something (in this case, the interest in a claimed water right) to another.

The process is fairly simple.

1. Pick up (or call to request) an assignment of statement of claimant form from the Department of Water Resources in Phoenix. *See example.*

2. The old property owner should fill out the statement of

claimant information on the front side of the sheet. *See "a" on example.* Be sure to include all statements of claimant that are being transferred. Many properties may include multiple claims (irrigation, domestic, etc.) The old property owner should also fill out the left-hand side (seller/assignor) on the back of the assignment form. *See "b" on example.*

3. The new property owner should fill out the right-hand side of the back of the assignment form (buyer/assignee). *See "c" on example.*

4. The form must be notarized. *See "d" on example.* Please note that each signature must be witnessed by a notary public. The same notary public may be used, as long as both signatures are witnessed. Also, all people who signed the original statement of claimant must sign to release their claim. For example, if you and your brothers and sisters are currently listed on the statement of claimant, each of you must sign to transfer the claimed water rights to a buyer. If you need more space, you may attach a separate piece of paper.

5. Attach a copy of the deed, county assessor's tax parcel notice,

or other document which demonstrates the change of ownership.

6. Return the assignment of statement of claimant to the Department of Water Resources in Phoenix. You may mail or deliver the assignment to DWR. The new owner should keep a copy of the assignment of the statement of claimant for his or her records.

The old property owner should provide the new property owner with all the documents that have been received related to the adjudication. Once DWR receives the assignment of statement of claimant form, the department will file the assignment and update its ownership records. Any further mailings will be sent to the new property owner. ♠

**See examples on top of page 7.*

Definitions

Irrigation: The controlled application of water for agricultural purposes through human-made systems to supply water requirement not satisfied by rain or snow.

Non-consumptive use: Using water in a way that does not reduce the supply. Examples include hunting, fishing, boating, water-skiing, swimming, and some power production.

Notice of Appropriation: Prominent notice of a water use, given by posting at the diversion or recorded with the county recorder, usually before the enactment of the Public Water Code in 1919.

Watershed: The area of land that contributes surface runoff to a given point in a drainage system.

Resources Codes

Guide to Dept. of Water Resources Codes Used in Hydrographic Survey Reports

10s: Notice of appropriations filed prior to 1919.

20s: Court decree.

3R, 4A & 33s: Applications for surface water right, permit or certificate.

39s: Statement of claimant filed for adjudication.

36s: Water Rights Registration Act, opportunity to file a "pre-1919 water right," deadline was Oct. 1, 1990.

38s: Stockpond filings from Stock pond Registration Act.

55s: Filings for wells.

Assignment of Statement of Claimant Form

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF APACHE

NO. 6417

ASSIGNMENT OF STATEMENT
OF CLAIMANT

IN RE THE GENERAL ADJUDICATION
OF ALL RIGHTS TO USE WATER IN THE
LITTLE COLORADO RIVER SYSTEM
AND SOURCE

This form is to be used to notify the Superior Court of Apache County of any change in ownership of land upon which a claim for a water right was made on a statement of claimant form filed in the General Adjudication of the Little Colorado System and Source. This form may also be used to notify the Court of any change in ownership of a water right which is not attached or appurtenant to land or which has been transferred from one parcel of land to another.

Both sides of this form are to be complete in accordance with the instructions below. All signatures are to be verified by a notary public.

Mail the original completed form to:

Arizona Department of Water Resources
Adjudications Division
15 South 15th Avenue
Phoenix, Arizona 85007

General Instructions

Please attach to this form a copy of a duly recorded deed, a copy of the County Assessor's tax parcel notice or other documentation which evidences change of ownership of the land or of a water right to which Statement(s) of Claimant applies.

Two or more Statements of Claimant may be assigned on this form only if the assignor(s)/seller(s) are identical on all Statements of Claimant and the assignee(s)/buyer(s) are identical on all Statements of Claimant. If a Statement of Claimant is subdivided to two or more separate assignees/buyers, an assignment form must be completed for each of the assignees/buyers. If more space is needed, attach a separate sheet.

This assignment form must be signed by all assignee(s)/buyer(s) and all assignor(s)/seller(s), and the current address and telephone number of each party must be furnished. If there are more than two assignees or assignors, the name, address, telephone number and signature of each additional assignee or assignor should be attached on a separate sheet.

The undersigned parties hereby notify the Superior Court of Apache County of the assignment of the following Statement(s) of Claimant:

39- _____	filed in the _____	Little Colorado River Watershed
39- _____	filed in the _____	Little Colorado River Watershed
39- _____	filed in the _____	Little Colorado River Watershed
39- _____	filed in the _____	Little Colorado River Watershed
39- _____	filed in the _____	Little Colorado River Watershed
39- _____	filed in the _____	Little Colorado River Watershed

SELLER(S)/ASSIGNOR(S)

NAME(S) _____ (Print or Type)

ADDRESS _____

TELEPHONE (____) _____

Signature _____

Signature _____

STATE OF ARIZONA
County of _____) ss.

The foregoing instrument was acknowledged and signed before me this _____ day of _____, 19____, by _____.

Notary Public _____

My Commission Expires: _____

BUYER(S)/ASSIGNEE(S)

NAME(S) _____ (Print or Type)

ADDRESS _____

TELEPHONE (____) _____

Signature _____

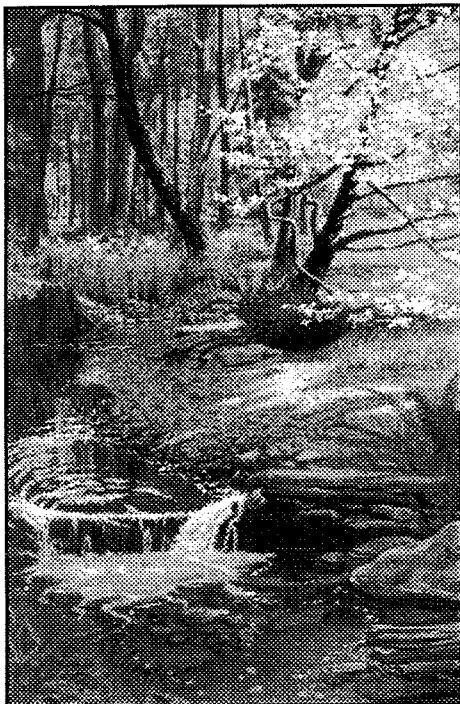
Signature _____

STATE OF ARIZONA
County of _____) ss.

The foregoing instrument was acknowledged and signed before me this _____ day of _____, 19____, by _____.

Notary Public _____

My Commission Expires: _____



Sources for Help

If you have questions in a particular area, here are the proper people to contact.

Adjudications, HSRs, WFRs, Discovery

Ana Marquez-Guerrero
Adjudications Division
AZ Dept. of Water Resources
15 South 15th Ave.
Phoenix, AZ 85007
(602) 542-1520
(Toll free in AZ) 1-800-352-8488

Scheduling, Procedure

Ramsey Laursoo Kropf
Case Administrator
Office of the Special Master
Arizona State Courts Building
1501 W. Washington, Suite 228
Phoenix, AZ 85007
(602) 542-9600
TDD (602) 542-9545

Pleadings

Gila River

Barbara Crawford
Clerk's Office
Maricopa County Superior Court
Records Management Center
3345 W. Durango St.
Phoenix, AZ 85009
(602) 506-3683
FAX (602) 506-4516

Little Colorado River

Zetta Hall
Clerk's Office
Apache County Superior Court
Apache County Courthouse
P.O. Box 365
St. Johns, AZ 85936
(602) 337-4364

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